

Exhibit 4

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Attorneys for Defendant

**UNITED STATES DISTRICT COURT
 DISTRICT OF ARIZONA**

-----X	:	Case No. _____
IN RE: SUBPOENA TO ALLIANCE	:	
HEALTHCARE PARTNERS, LLC	:	Pending in the United States District
	:	Court for the Northern District of
IN CONNECTION WITH:	:	California—Civil Case No. 3:21-CV-
	:	03825-VC
IN RE DA VINCI SURGICAL ROBOT	:	
ANTITRUST LITIGATION,	:	DECLARATION OF MICHAEL H.
	:	MENITOVE IN SUPPORT OF
Plaintiffs,	:	DEFENDANT'S APPLICATION
	:	FOR AN ORDER COMPELLING
- against -	:	ALLIANCE HEALTHCARE
	:	PARTNERS, LLC TO COMPLY
INTUITIVE SURGICAL, INC.,	:	WITH DEFENDANT'S SUBPOENA
	:	OR, IN THE ALTERNATIVE, TO
Defendant.	:	TRANSFER

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1 I, Michael H. Menitove, the undersigned, declare:

2 1. I am an attorney at the law firm of Skadden, Arps, Slate, Meagher & Flom
3 LLP. I am counsel for Defendant Intuitive Surgical, Inc. ("Intuitive"). I have personal
4 knowledge of the matters set forth herein. If called as a witness, I could and would testify
5 competently thereto.

6 2. I make this declaration in support of Defendant's Application for an Order
7 Compelling Alliance Healthcare Partners, LLC to Comply with Defendant's Subpoena, or
8 in the Alternative, to Transfer.

9 3. On July 15, 2022, counsel for Alliance Healthcare Partners, LLC
10 ("Alliance"), Intuitive, and the plaintiffs in the underlying action (*In re da Vinci Surgical*
11 *Robot Antitrust Litigation*, No. 3:21-CV-03825-VC (N.D. Cal.)) met and conferred
12 telephonically regarding Alliance's objections to the subpoenas served by Intuitive and
13 the plaintiffs.

14 4. During that July 15 conference, counsel for Alliance agreed to permit
15 Intuitive and the plaintiffs to use in the underlying action the documents that Alliance had
16 previously produced in response to the subpoena that Intuitive served on Alliance in
17 *Restore Robotics LLC v. Intuitive Surgical, Inc.*, No. 5:19-cv-55-TKW-MJF (N.D. Fla.).
18 In connection with that conference, Alliance's counsel also produced an email chain with
19 correspondence between Alliance personnel and FDA representatives, ranging from
20 October 1, 2021 to June 30, 2022.

21 5. Alliance's counsel stated that he could not represent that the produced email
22 chain constitutes the entirety of the correspondence between Alliance and the FDA during
23 the period from October 2021 to June 2022.

24 6. Alliance's counsel also stated that aside from the documents Alliance had
25 previously produced in the *Restore* case and the email chain referenced above, Alliance
26 would not search for, or produce, any other documents responsive to Intuitive's subpoena.

27 7. Alliance's counsel conceded that Alliance had not undertaken any assessment
28 of the burden to fully comply with Intuitive's subpoena by, for example, collecting

1 documents and applying search terms to determine the number of potential documents at
2 issue for review.

3 I declare under penalty of perjury under the laws of the United States that the
4 foregoing is true and correct.

5 Executed this 5th day of August, 2022, at Scarsdale, New York.

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7 Michael H. Menitove
8 Michael H. Menitove
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